

ORIGINAL

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

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OCT 18 2005

Illinois Commerce Commission  
RAIL SAFETY SECTION

RIVERWOODS NORTH AURORA, L.L.C. and )  
VILLAGE OF NORTH AURORA, Kane County, )  
Illinois, )  
Petitioners )  
vs. )  
BURLINGTON NORTHERN AND SANTA FE )  
RAILWAY COMPANY )  
and )  
STATE OF ILLINOIS )  
DEPARTMENT OF TRANSPORTATION, )  
Respondents )

No. T05-0013

Petition for an Order of the Illinois Commerce Commission authorizing the improvement of the existing grade crossing at Riverwoods Lane with the track of the Burlington Northern and Santa Fe Railway Company, in the Village of North Aurora, Kane County, Illinois, directing thereon the installation of automatic protection devices and re-construction of the crossing proper and dividing the cost among the parties herewith.

AMENDED PETITION

TO THE ILLINOIS COMMERCE COMMISSION:

Now come Petitioners, RIVERWOODS NORTH AURORA, L.L.C. (hereinafter referred to as the "Riverwoods") and the VILLAGE OF NORTH AURORA, KANE COUNTY, ILLINOIS (hereinafter referred to as the "Village") by Edward P. Graham, their attorney and respectfully petition the Honorable Commission as follows:

1. That the Respondent, Burlington Northern and Santa Fe Railway Company (hereinafter the "BNSF"), in the operation of its facilities has a certain track running in a general North and South direction through the Village which crosses the proposed Riverwoods Lane in the Village (hereinafter "BNSF mainline").

2. That as part of the construction of Sperry Street, Petitioners propose to improve the existing crossing at the BNSF mainline (hereinafter the "crossing"), as more particularly described on the

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map and plan attached hereto as Exhibits A and B respectively which are incorporated herein by reference.

3. That the proposed Sperry Street, on both sides of the crossing of said track of BNSF lies within the corporate limits of the Village.

4. That Sperry Street, from the westerly line of the BNSF right-of-way ("ROW") east to the BNSF/IL Route 25 ROW shall be maintained by and at the expense of the Village of North Aurora and/or the Illinois Department of Transportation. That section of Sperry Street located west of the westerly line of the BNSF ROW shall be maintained by and at the expense of Riverwoods North Aurora, L.L.C.

5. That under the laws of the State of Illinois, through the Illinois Highway Code, the Village has jurisdiction over Sperry Street on the east side of the crossing, which will carry local, primarily residential traffic across the BNSF mainline in an east-west direction generally between State Routes 56 (to the west) and 25 (to the east).

6. That Sperry Street, east of Route 56 and west of Route 25, shall be constructed during the calendar year 2005 as a two-lane curb and gutter roadway with a 3-foot center median consisting of bituminous concrete surface.

7. That the construction of Sperry Street is vitally needed to (a) accommodate the projected moderate volume of vehicular traffic anticipated to be generated by the North Aurora Riverfront Townhome Development, currently under various stages of construction; (b) to allow secondary access through the development for municipal officials, employees and public safety officers, specifically providing an alternative entrance and exit for police officers entering and leaving the police department; and (c) is necessary for the safety, convenience and security of the traveling public.

8. That railroad traffic on the BNSF's mainline is freight of low volume operating at low speeds during hours of daylight and darkness.

9. That the installation of automatic and positive control protective devices at the aforesaid crossing is necessary in the interest of public safety; that the automatic flashing lights, signals and gates are appropriate as protective devices; that a precast concrete surface crossing at the tracks of the BNSF as

described herein, will best serve the anticipated uses of the crossing by highway traffic; and the cost thereof should be reasonably apportioned between the parties in accordance with the law.

WHEREFORE, Petitioners pray that the Honorable Commission will set the aforesaid matter for hearing with notice to the Parties hereto, and after such hearing enter an Order:

1. Authorizing the establishment of a new public, at-grade crossing at Sperry Street with the mainline track of the Burlington Northern Santa Fe Railway Company as shown on the map and plan attached hereto.

2. Directing the Respondent to install and thereafter maintain and operate the system of automatic protection devices conforming with the provisions of 92 Illinois Administrative Code, Part 1535, and as amended, at said crossing.

3. Directing the Respondent to install and maintain a precast concrete surface grade crossing at said track.

4. Dividing the cost involved among the parties in accordance with the law.

5. Directing that all of the above acts be contingent upon the opening and construction of the new Sperry Street to State Route 25; to be accomplished in such order and manner as not to obstruct the free movement of vehicular traffic across said track.

6. Petitioners further specially request that all necessary steps be taken by the Honorable Commission to expedite, accelerate and advance upon its docket for immediate consideration, the matter of this Petition.

DATED at Naperville, Illinois this 25<sup>th</sup> day of August, 2005.

Respectfully submitted,

RIVERWOODS NORTH AURORA, L.L.C.

Edward P. Graham  
BY: EDWARD P. GRAHAM, One of its Attorneys

STATE OF ILLINOIS     )  
                                      )  
COUNTY OF DUPAGE     )

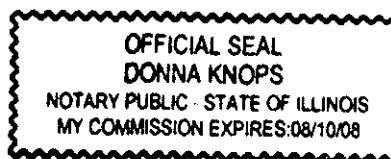
VERIFICATION

I, DAVID J. FAGANEL, being duly sworn upon oath depose and say that I am the President of R. A. Fagenel Builders, Inc., Manager of Riverwoods North Aurora, L.L.C.; that I have read the foregoing Amended Petition by me subscribed and know the contents there of; that said contents are true in substance and in fact.

  
\_\_\_\_\_  
DAVID J. FAGANEL

SUBSCRIBED AND SWORN TO me this 24th day of August, 2005.

  
\_\_\_\_\_  
NOTARY PUBLIC



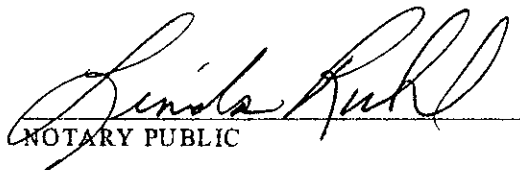
STATE OF ILLINOIS       )  
                                      )  
COUNTY OF KANE        )

VERIFICATION

I, SUE MCLAUGHLIN, being duly sworn upon oath depose and say that I am the Village Administrator for the Village of North Aurora, Kane County, Illinois; that I have read the foregoing Amended Petition by me subscribed and know the contents there of; that said contents are true in substance and in fact.

  
SUE MCLAUGHLIN

SUBSCRIBED AND SWORN TO me this 24 day of August, 2005.

  
NOTARY PUBLIC



STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

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RAILWAY COMPANY	)	No. T05-0013
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**NOTICE OF FILING**

TO: See attached Service List

PLEASE TAKE NOTICE that on the 25<sup>th</sup> day of **August, 2005**, this firm caused its Amended Petition, a copy of which is attached, to be filed with the Clerk of the Illinois Commerce Commission on behalf of Petitioners, Riverwoods North Aurora, L.L.C. and Village of North Aurora.

LAW OFFICES OF EDWARD P. GRAHAM, LTD.

  
BY: EDWARD P. GRAHAM

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